

INSTRUCTIONS FOR FILING A CIVIL RIGHTS COMPLAINT UNDER 42 U.S.C. § 1983: PRISONER CASES

Note: Pursuant to the Prison Litigation Reform Act, 42 U.S. C. §1997e requires prisoners to exhaust available administrative remedies before initiating a prison condition case under 42 U.S.C. § 1983. Failure to exhaust such remedies will result in dismissal of your case.

Enclosed is a § 1983 complaint form, a Petition and Affidavit to Proceed in forma pauperis, including an Authorization for Release of Institutional Account Information and Payment of the Filing Fee, an information sheet, and a Notice of Lawsuit and Request for Waiver of Service of Summons form. The filing fee is \$150.00 which must be paid at the time the action is filed. If you are unable to pay the fee, you may petition the court for leave to proceed in forma pauperis. (See enclosed information sheet).

Instructions:

1. You must file with the Clerk of the United States District Court an original complaint and one copy for each defendant that you sue. You also should keep a copy of the complaint for your own records. All copies of the complaint must be identical to the original.
2. Your complaint must be legibly handwritten or typed. The complaint must be signed by each plaintiff and should include the prisoner identification number of each plaintiff. The complaint need not be notarized. Answer each question to the best of your knowledge and belief. Be concise.
3. Provide facts supporting your claims. You must explain what **each** defendant did to violate your federal rights. Include the relief you are requesting from the court.
4. Please try to keep your complaint to the space provided. However, if you need additional space to answer a question or state your claim, attach blank pages to the form. Do not use the back of the form.
5. If you are unable to pay the filing fee, you may petition the court for leave to proceed in forma pauperis by completing and signing, under penalty of perjury, the enclosed petition and financial affidavit. This need not be notarized. Each plaintiff who seeks to file in forma pauperis must complete a petition and affidavit.
6. You must also file a certified copy of your trust fund account statement for the six month period immediately preceding the filing of the complaint.
7. Sign your name at the bottom of each of the attached Notice of Lawsuit and Request for Waiver of Service of Summons forms and return them with your complaint.

DO NOT COMPLETE any other portions of this form. You must sign one form for **each** defendant. You may make copies of the unsigned form or request additional copies from the Clerk's office.

8. When these forms are properly completed, mail them to:

Clerk, United States District Court
United States Courthouse, Rm. 362
517 E. Wisconsin Avenue
Milwaukee, Wisconsin 53202

UNITED STATES DISTRICT COURT

Eastern District of Wisconsin

(Full Name of Plaintiff[s])

Plaintiff(s),

Case No. _____

(Supplied by Clerk)

v.

(Full Name of Defendant[s])

Defendant(s).

COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

I. PLACE OF PRESENT CONFINEMENT (Provide full address)

SOCIAL SECURITY NUMBER : _____

A. Is there a grievance procedure in your prison/jail? YES G NO G

B. Have you filed a grievance concerning the facts relating to this complaint?
YES G NO G

C. If you have used the grievance process:

1. Describe what you did and the result, if any.

2. Is the grievance process completed? _____

D. If you did not use the grievance process, explain why not:

NOTE: YOU MUST INCLUDE A COPY OF YOUR INITIAL GRIEVANCE AND ANY SUBSEQUENT DECISIONS BY THE PRISON/JAIL OR A COURT ON YOUR GRIEVANCE.

II. **PARTIES**

- A. Your name (Plaintiff) _____
- B. Prisoner I.D. Number _____
- C. Your Address _____

(For additional plaintiffs provide the same information in the same format on a separate page.)

- D. DEFENDANT (name) _____
is employed as _____
at _____
- E. Additional DEFENDANTS (names and positions):

III. **PREVIOUS LAWSUITS**

- A. Have you begun other lawsuits in state or federal court relating to the same facts involved in this action? G YES G NO
- B. Have you begun other lawsuits in state or federal court relating to your imprisonment? G YES G NO
- C. If your answer is *YES* to either of the above questions, provide the following requested information.

1. Parties to the previous lawsuit

Plaintiff(s): _____

Defendant(s): _____

2. Date filed _____
3. Court where case filed (if federal court, name district: if state court, name the county) _____
4. Case number and citation _____
5. Basic claim made _____

6. Current status (for example: Was the case dismissed? Was it appealed? Is it still pending?) _____

7. If resolved, date of disposition _____
8. If resolved, state whether for _____
(Plaintiff or Defendant)

(For additional cases, provide the above information in the same format on a separate page.)

IV. STATEMENT OF CLAIM

- A. State as briefly as possible the facts of your case. Describe how each named defendant is involved. Include the name of other persons involved, dates, and places. Describe specifically the injuries incurred. Do not give legal arguments or cite cases or statutes. You may do that in Item "B" below. If you allege related claims, number and set forth each claim in a separate paragraph. Use as much space as you need to state the facts. Attach extra sheets, if necessary. Unrelated separate claims should be raised in a separate civil action.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface.

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V. RELIEF YOU REQUEST

State briefly and exactly what you want the court to do for you. Make no legal arguments. Do not use this space to state the facts of your claim. Use it only to request remedies for the injuries you complain about.

I declare under penalty of perjury that the foregoing is true and correct.

Complaint signed this ____ day of _____, ____.

Signature of Plaintiff(s)

(If there are multiple plaintiffs, each must sign the complaint)

Prisoner I.D. Number(s) _____

NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF SUMMONS

TO: (A) _____

as (B) _____ (C) _____

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed.) A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the (D) _____ District of _____ and has been assigned docket number (E) _____

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of services will be avoided if I receive a signed copy of the waiver within (F) _____ days after the date designated below as the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States.)

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth at the foot of the waiver form.

If affirm that this request is being sent to you on behalf of the plaintiff, this _____ day of _____, _____.

Signature of Plaintiff's Attorney
or Unrepresented Plaintiff

A - Name of individual defendant (or name of officer or agent of corporate defendant)

B - Title, or other relationship of individual to corporate defendant

C - Name of corporate defendant, if any

D - District

E - Docket number of action

F - Addressee must be given at least 30 days (60 days if located in foreign country) in which to return waiver.

**INFORMATION TO PRISONERS SEEKING LEAVE TO
PROCEED WITH A CIVIL ACTION IN FEDERAL COURT
IN *FORMA PAUPERIS* PURSUANT TO 28 U.S.C. §1915**

In accordance with the provisions of the Prison Litigation Reform Act (PLRA) which amended the *in forma pauperis* (IFP) statute, prisoners are obligated to pay the full filing fee of \$150.00 for a civil action.

If you have the money to pay the filing fee, you should send a cashier's check or money order to the court with your complaint. If you do not have enough money to pay the full filing fee when your action is filed, you may request leave to proceed in forma pauperis. However, prisoners who proceed IFP must still pay the full filing fee. If you have insufficient funds in your prison or jail account, the court will assess and, when funds exist, collect at the time the action is filed an initial partial filing fee of 20 percent of:

(1) the average monthly deposits to your account for the immediately preceding six month period,
or

(2) the average monthly balance in your account for that same six-month period,
whichever sum is greater. You will be required to pay that initial partial filing fee out of your account as soon as funds are available and to forward the money to the court.

After that, monthly payments equal to 20 percent of your preceding month's income will be forwarded to the court when the amount in your account exceeds \$10.00 until the \$150.00 filing fee is paid. The agency or facility that has custody of you will collect the money and send these payments to the clerk of court each time the amount exceeds \$10.00 until the filing fee is paid.

To proceed with an action, you must complete the enclosed petition and affidavit for leave to proceed *in forma pauperis* and return it to the court with your complaint and a certified copy of your prison trust account statement showing transactions for the last six months.

Regardless of whether some or all of the filing fee has been paid, the court is required to screen your complaint and to dismiss the complaint if (1) your allegation of poverty is untrue; (2) the action is frivolous or malicious; (3) your complaint does not state a claim on which relief can be granted; or (4) you sue a defendant for money damages and that defendant is immune from liability for money damages. 28 U.S.C. §1915(e).

No action may be brought with respect to prison conditions under 42 U.S.C. §1983 or any other federal law by a prisoner confined in a correctional institution until the administrative remedies which are available are exhausted. 42 U.S.C. §1997e.

Please note: If you file more than three actions while you are a prisoner which are dismissed as frivolous or malicious or for failure to state a claim on which relief can be granted, then you will be prohibited from bringing any other actions *in forma pauperis* unless you are in imminent danger of serious physical injury. 28 U.S.C. §1915.

United States District Court

EASTERN DISTRICT OF WISCONSIN

(Full Name of Plaintiff[s])

Plaintiff(s),

v.

Case No. _____
(Supplied by Clerk)

(Full Name of Defendant[s])

Defendant(s).

PETITION AND AFFIDAVIT FOR LEAVE TO PROCEED IN FORMA PAUPERIS

I, _____, plaintiff or petitioner, move the court for leave to proceed *in forma pauperis* in the above-named action. I declare under penalty of perjury that the following facts are true. (Note: Prisoners must pay the full filing fee of \$150.00 in accordance with 28 U.S.C. § 1915. See instructions provided with this packet.)

Attach a certified copy of your prison trust account statement showing transactions for the six months immediately preceding the filing of your complaint.

1. I am the party initiating this action and I believe I am entitled to redress.
2. I am unable to prepay the fees and costs of this proceeding, or to give security, because of my poverty.
3. I am (check one) ☐ Single ☐ Married ☐ Separated
 ☐ Divorced
4. My responses to the following questions are true:
 - A. Are you presently employed? ☐ YES ☐ NO
 - B. If the answer is "yes", state the amount of your salary or wages per month and give the name and address of your employer.

- C. If the answer is "no", state the date of your last employment and the amount of your salary or wages per month which you received.

- D. Have you received money from any of the following sources within the past 12 months?

Business, profession, or form of self-employment?

G YES G NO

Rent payments, interest, or dividends? G YES G NO

Pensions, annuities, or life insurance payments?

G YES G NO

Disability or workers' compensation payments?

G YES G NO

Gifts or inheritances? G YES G NO

Any other sources? (including prison wages)

G YES G NO

If the answer to any of the above is yes, describe the source **and** amount of the money received from each during the past 12 months and what you expect you will continue to receive. Please attach an additional sheet if necessary.

- E. Do you have any cash or checking, savings, or other accounts? (Include any funds in prison accounts during the last six months.) G YES G NO

If the answer is "yes", state the total amount of cash and the average monthly balance in all checking, savings, prison, or other accounts during the last six months.

- F. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles, jewelry, or other valuable property or assets (except for ordinary household furnishings and clothing)?

G YES G NO

If the answer is "yes", identify the property and state its approximate value:

- G. Do you have any debts or obligations? G YES G NO

If yes, list the amounts owed, to whom, and any current payments that you are making.

- H. List the persons who are dependent upon you for support, state your relationship to each person, and state how much you contribute to their support.

I declare under penalty of perjury that the foregoing is true and correct.

(Signature of Plaintiff)

(Date)

(Prisoner I.D. Number)

**Authorization for Release of Institutional Account Information and
Payment of the Filing Fee**

I, _____
(Name of Plaintiff) (Prison I.D. Number)

authorize the clerk of court to obtain from the agency having custody of my person, information about my prison trust account, including balances, deposits, and withdrawals until the filing fee is paid. I understand that, when sufficient funds exist in my prison trust account, I will be required to pay an initial partial filing fee equal to 20 percent of the greater of: (A) the average monthly deposits to my account for the six month period immediately preceding the filing of my complaint or notice of appeal, or (B) the average monthly balance in my account for the six-month period immediately preceding the filing of the complaint or notice of appeal. I understand and hereby authorize that, after payment of the initial partial filing fee, monthly payments will be forwarded to the Clerk of the Court equal to 20 percent of the preceding month's income credited to my account. I hereby authorize the agency or facility having custody of my person to withdraw funds from my prison trust account and forward such payments from my account to the Clerk of the Court each time the amount in the account exceeds \$10.00, until the filing fee is paid as set forth in 28 U.S.C. § 1915(b)(2).

(Signature of Plaintiff)

(Date)

NOTE: A CERTIFIED COPY OF YOUR PRISON TRUST ACCOUNT STATEMENT SHOWING TRANSACTIONS FOR THE SIX MONTH PERIOD IMMEDIATELY PRECEDING THE FILING OF YOUR COMPLAINT MUST ACCOMPANY THIS PETITION AND AFFIDAVIT.